

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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New York City District Council of Carpenters Pension Fund,
New York City District Council of Carpenters Welfare Fund,
New York City District Council of Carpenters Annuity Fund,
and New York City District Council of Carpenters
Apprenticeship, Journeyman, Retraining, Educational and
Industry Fund, by their trustees, Frank Spencer, Douglas J.
McCarron, John Ballantyne, Paul Tyznar, Paul O'Brien,
Kevin M. O'Callaghan, Catherine Condon, David Meberg,
Bryan Winter, and John DeLollis,

Plaintiffs,

-against-

ANSWER

11 Civ 5474 (LBS)

Michael Forde, John Greaney, Joseph Olivieri, Brian Hayes,
Michael Mitchell, Finbar O'Neill, K.A.F.C.I., Michael Brennan,
Turbo Enterprises, Inc., Terence Buckley,
Pitchohn Construction Enterprises, Inc., Gerard McEntee,
Pyramid Associates Construction Corp., James Duffy,
EMB Contracting Corp., Michael Batalias, Elisavet Batalias,
Matthew Kelleher, Brian Carson, Joseph Ruocco,
John Stamberger, and Michael Vivenzio,

Defendants.
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Defendant BRIAN HAYES, by his attorney, James R. Froccaro, Jr., as and
for his Answer to the First Amended Complaint ("Complaint"), alleges as follows:

1. Denies knowledge or information to form a belief as to the truth of the
allegations contained within paragraphs 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,
21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46,
48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60(a, b, c, e and f), 65, 66, 67, 68, 69, 70, 71, 72,
73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 101, 102, 103,

104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 145, 147, and 148 of the Complaint, and respectfully refers all questions of law contained within these paragraphs to the Court.

2. Denies the allegations made within paragraphs 1, 20, 47, 59, 60(d), 61, 62, 63, 64, 95, 96, 97, 98, 99, and 100 of the Complaint, and respectfully refers all questions of law contained within these paragraphs to the Court.

3. Admits the allegations contained within paragraphs 7, 8, and 9 of the Complaint, and respectfully refers all questions of law contained within these paragraphs to the Court.

ANSWERING THE FIRST CLAIM FOR RELIEF

4. Incorporates by reference the answers previously provided to paragraphs 1 to 148 of the Complaint with respect to the allegations made in paragraph 149 of the Complaint.

5. Denies the allegations contained within paragraphs 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, and 164 of the Complaint, and respectfully refers all questions of law to the Court.

ANSWERING THE SECOND CLAIM FOR RELIEF

6. Incorporates by reference the answers previously provided to paragraphs 1 to 164 of the Complaint with respect to the allegations made in paragraph 165 of the Complaint.

7. Denies the allegations contained within paragraphs 166, 167, 168, 169, 170, 171, 172, 173, 174, 175 and 176 of the Complaint, and respectfully refers all questions of law to the Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. The Complaint fails to state a claim upon which relief may be granted as to defendant Brian Hayes.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. The claims made against defendant Brian Hayes in the Complaint are barred, in whole or part , by the Statute of Limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. The claims made against defendant Brian Hayes in the Complaint are barred, in whole or part, because of a prior money judgment entered against said defendant in connection with a federal criminal case.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

11. The claims made against defendant Brian Hayes in the Complaint are barred, in whole or part, because of a prior agreement entered into between said defendant and the New York City District Council of Carpenters.

WHEREFORE, defendant Brian Hayes demands judgment dismissing the Complaint
with costs.

Dated: Port Washington, New York
January 17, 2012

Yours, etc.,

/JRF/

JAMES R. FROCCARO, JR. (JRF-5461)
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ANSWER to FIRST AMENDED COMPLAINT

JAMES R. FROCCARO, JR.
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